

CITY COUNCIL MINUTES
March 13, 2006
REGULAR SESSION

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, March 13, 2006 at 6:00 p.m. with Mayor Pro Tem Robert Snyder presiding and City Clerk Joseph G.R. Labrie recording the minutes.

CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL:

Council Members Present: Kevin Hanley, Keith Nesbitt, Bridgett Powers, Robert Snyder

Council Members Absent: J. M. Holmes

Staff Members Present: City Manager Robert Richardson, City Attorney Michael Colantuono, Community Development Director Will Wong, Police Chief Valerie Harris, Fire Chief Mark D'Ambrogi, Finance Director Andy Heath, Associate Planner Reg Murray, Public Works Director Jack Warren

MAYOR'S COMMENDATIONS/PROCLAMATIONS/ACKNOWLEDGEMENTS/ANNOUNCEMENTS

None

AGENDA APPROVAL

Approved

CONSENT CALENDAR

1. **Warrants**

By **RESOLUTION 06-28** approve Warrants #62063 through 62613 totaling \$2,617,925.13.

2. **State of the Community Dinner Sponsorship**

By **RESOLUTION 06-24** approve an expenditure of \$1000 for State of the Community Dinner Corporate Sponsorship.

***** End of Consent Agenda *****

By **MOTION** approve the Consent Calendar. **MOTION: Hanley/Snyder/4:0 (Holmes Absent)**

3. **Public Comment**

None

PUBLIC HEARINGS

4. **General Plan Amendment and Ordinance Amendment (Separated Sidewalks) – Files GPA 05-1: OA 05-1 - First Reading**

Associate Planner Reg Murray introduced the item. He advised that Council had discussed the amendments at two prior meetings. Since that time Council Members Nesbitt and Hanley were afforded the opportunity to meet with city staff and review the item in depth.

Council questions and discussion followed. City Attorney Michael Colantuono clarified specific issues under discussion.

Janeene O'Brien, Channing Way, Auburn, introduced herself as part of the Pedestrian Master Plan Committee. She stated that it was her desire that the ordinance passed. She said there is great importance to the design of a development. She made several suggestions such as plants for landscaping that need little water and are colorful.

Christina Walsh Curley identified herself as a local resident and a member of the PMP Committee. She spoke in favor of the trees in the separated sidewalks.

- A. By **MOTION** find that this project is exempt from the provisions of CEQA per Section 15061 (b) (3) as the activity has no possibility to have a significant effect on the environment. **MOTION: Nesbitt/Hanley/Approved by Voice (Absent Holmes)**
- B. By **RESOLUTION 06-25** adopt the amendments to the Circulation Element of the Auburn General Plan relating to roadway design standards and street standards as outlined in Exhibit A. **MOTION: Nesbitt/Hanley/Approved 4:0 (Absent Holmes)**
- C. By **RESOLUTION 06-26** adopt the Parkway Areas plan as illustrated with Exhibit B. **MOTION: Nesbitt/Hanley/Approved 4:0 (Absent Holmes)**

- D. By **MOTION** find that the Ordinance Amendments to address changes to the City standards for separated sidewalks are:

1. Consistent with the General Plan; and
2. Consistent with the public interest, health, safety, and welfare of the City.

MOTION: Nesbitt/Hanley/Approved by Voice

- E. Introduce and hold a first reading, by title only, for an **ORDINANCE** to amend Sections 101.020, 101.021, 101.024, 101.032, 158.226, 158.228, as amended by staff, and 160.002 of the Auburn Municipal Code relating to street standards and parkway maintenance requirements as outlined in Exhibit C. **MOTION: Nesbitt/Hanley/ Approved 4:0 (Absent Holmes)**

The motion included the title so Attorney Michael Colantuono dispensed with the reading.

- F. By **MOTION** direct staff to 1) Amend the tree tables in Attachment 1 to include "Canopy Size" and Canopy Shape;" and 2) Enhance the graphics in the typical street section figures per the direction of the Planning Commission (see figures attached to Exhibit A). **MOTION: Nesbitt/Hanley/Approved by Voice (Absent Holmes)**

REPORTS

5. **City Council Committee Reports**

Council Member Hanley announced that due to conflicts with his work, Michael Murphy would be resigning his position on the Planning Commission. He will find a replacement as quickly as possible.

Mayor Pro Tem Snyder reported on the Mosquito Abatement District Meeting that he attended. He reported that due to the cold weather there are no problems with mosquitoes at this time.

COUNCIL BUSINESS

Mayor Pro Tem Snyder announced that Items 6 and 7 would be combined for discussion purposes. He stated that there was a request to table the items and asked what the council members would like to do.

Joe Labrie stated that he would like to explain why he requested the item tabled. He said he had some authorities on the subject who would like to

speak and were not in attendance. He also stated that he would like Mayor Holmes to be in attendance for the presentation.

By **MOTION** table the request so that the items can be heard tonight.

MOTION: Hanley/Snyder/

Prior to the vote, discussion followed commencing with Council Member Hanley. He said that "state law and our rules basically provide a process where it is clear to all members of the public that a specific item will come before the City Council on the appointed day." So, he felt to postpone an item because someone could not be at the meeting would set a "terrible precedent." He added that the item had been heard at several Planning Commission meetings as well as Council meetings. Thus, he felt the issue should no longer await a vote.

Council Member Nesbitt stated that he concurred with Council Member Hanley that there should be no further delay in action. However, he also stated that he understood Mr. Labrie's concern because the documents in Item 6 are one-sided and the public possibly could benefit from hearing both sides. Therefore he supported a continuance of the item.

Council Member Powers questioned the process of the first and second reading of an ordinance. City Attorney Colantuono clarified it for her.

Mayor Pro Tem Snyder called for public comment.

Joe Labrie reiterated his reasons for asking for a postponement. He stated that he disagreed with what Council Member Hanley said about going forward with the motion due to fact that the item was on the agenda. He advised that many times agenda items have been postponed after being on an agenda or noticed in the paper, so that is not an acceptable excuse. Additionally, he said that the information provided in Item 6 is extremely one-sided. He said he would like the council members to hear from a dispensary operator, who has had no problems, present a balanced argument for their consideration.

Council Member Hanley responded by stating that he would like the council to consider that staff should always present its particular viewpoint. So, although the Police Chief's inclusion of information can be perceived as negative, her point of view was presented. He advised that previously the council and the planning commissioners were provided a great deal of information by those who favored dispensaries. He wanted to be certain that the council did not deter city staff from presenting its opinion on an information item.

Council Member Nesbitt advised Mr. Labrie that he should be speaking from the lectern since this section of the agenda is “Public Comment.” Although Mr. Labrie stated that he was speaking as City Clerk, Mayor Pro Tem Snyder agreed with Council Member Nesbitt because it has nothing to do with “clerk duties.” Mr. Labrie, although in disagreement, then spoke from the lectern. Snyder reminded him that the debate is whether or not the item needed to be postponed.

Mr. Labrie stated that he would like it postponed in order to have a “fair hearing” and both sides of the argument to be complete, reiterating that he would like Mayor Holmes to be present. He stated, “This affects the health of a lot of people and pain management; far more than the council realizes.” Snyder advised that the argument seemed to be drifting off to pros and cons of the dispensary and not whether the item should be postponed or not.

Council Member Nesbitt questioned what type of guarantee Mr. Labrie had that his speakers would be present at the next meeting if the item was postponed. Labrie responded, “If they can’t be here, that will be the end of it.”

After questioning Labrie about why the speakers were not present, Snyder stated that he felt the council should move ahead with a vote. He stated that if the speakers were so adamant about presenting an argument, they could have presented something in writing. He added that he did not feel comfortable with further delay because “two invited guests did not show up.”

Council Member Powers commented that as a Planning Commissioner and a Council Member, she witnessed many people during public comment speak in favor of the medical marijuana dispensary. She said they listened to more people speak about the advantages. Therefore, she felt that both sides had been properly presented. She recommended moving forward with the vote.

By **MOTION** reject a request for a continuance of Item 6 and Item 7.

MOTION: Hanley/Snyder/Approved 4:0 (Absent Holmes)

Mayor Pro Tem Snyder advised that items 6 and 7 would be combined and dealt with as one item.

6. **Report on Secondary Negative Effects and Impacts that Occur in Jurisdictions that Allow Medicinal Marijuana Dispensaries to Operate**

Police Chief Valerie Harris introduced the item. She stated that the purpose of her report was to “provide additional information as to the

negative aspects, secondary negative impacts, to our community and to our citizens should a dispensary be allowed.” She did address the negative impact issues as outlined in the agenda packet. She stated that she had taken a survey of city business all of which did not want a dispensary near their operations.

City Attorney Michael Colantuno advised that he had gathered the materials and asked the chief to present them in order to “create a record to defend the ordinance, should we be required to do so.” He further advised that the lawsuits against the City of Concord and the City of Fresno were each abandoned by the plaintiffs.

Mayor Pro Tem Snyder opened the item to public comment.

Joseph Labrie advised council of a long conversation he had that date with the woman that works at the Medical Marijuana Dispensary in Colfax. In opposition to the Police Chief’s report, he stated that marijuana is not addictive and has no side effects. He further questioned the validity of the Chief’s survey of six businesses, calling it a “loaded question,” playing on the fear of the community. He stated that the implication to the business owners was that there would be a sign that said “Medical Marijuana.” He advised that it does not happen that way and people do not even know where the dispensaries are located. He stated that if the Council and the Police Chief had spoken with the people at the Colfax dispensary, an entirely different picture would have been portrayed than the information included in the agenda packet. For example the majority of the people that used the dispensary were from 55 to 85 years of age with severe medical problems. He stated that with the utilization of existing or reworked zoning laws a dispensary could be placed in a proper location within the city.

Council Member Nesbitt advised that although he knew there were fallacies in the information included in the agenda packet, he would not fight it because the content could add some “credibility to the decision.” He said he would support accepting it as an information item.

By **MOTION** the City Council accepted the report as an informational item.
MOTION: Hanley/Powers/Approved by Voice (Absent Holmes)

7. **Ordinance Amending the Municipal Code Regarding Medical Marijuana Dispensaries – Second Reading**

Council Member Nesbitt wanted to make his point on the ordinance stating that this is a government issue. He advised that nowhere could he find where the federal government has the right to usurp state’s rights. He urged anyone who could show him that it was the federal government’s

right to override the California electorate. He advised that the government subsidizes methadone, which is a lot stronger drug than marijuana. He stated that there is a lot of governmental hypocrisy in this issue. He said that, his wife was unable to smoke anything, during her treatment for cancer. However during her period of chemotherapy he spoke with eight to ten medical marijuana users. They explained that it provided relief from nausea and some of the pain and that they were able to eat. He said that if he could have provided his wife any relief when she was so sick and suffering so horrifically from chemotherapy, he would have done so. Therefore, he stated that he absolutely believes in the Compassionate Use Law although he did not want a marijuana dispensary in Auburn. However, based on the governmental issue, he advised that he would vote against the ordinance.

By **ORDINANCE 06-2** amend the Auburn Municipal Code regarding Medical Marijuana Dispensaries. **MOTION: Hanley/Powers/Approved 3:1 (Nesbitt No, Holmes Absent)**

City Attorney Michael Colantuono advised that the ordinance would be effective in thirty days.

8. **California Statewide Communities Development Authority Pension Obligation Bond Offering**

Finance Director Andy Heath introduced the item. He explained that it was his recommendation that the city participate in the Pension Obligation Bond Program sponsored by the California Statewide Communities Development Authority in that there would be an annual savings to the city of approximately \$53,500 over the next twenty-two years.

Council questions and discussion followed.

By **RESOLUTION 06-27** authorize the issuance of one or more series of Pension Obligation Bonds, approving the form of and authorizing the execution and delivery of a Trust Agreement, and authorizing a Validation Action and other matters relating thereto. **MOTION: Hanley/Nesbitt/ Approved 4:0 (Absent Holmes)**

9. **Application for the Helen Putnam Award for Excellence**

Council Member Hanley introduced the item. It was his recommendation that the council agree to submit an application in the Community Services and Economic Development Category for Project Auburn 2004 and Project Auburn 2005 for the Helen Putnam Award for Excellence sponsored by the League of California Cities. He advised that an article

is printed in the Western City magazine about the award winner which is an excellent way to share good ideas with other cities.

By **MOTION** approve submitting an application for the Helen Putnam Award for Excellence in the Community Services and Economic category for Project Auburn 2004 and Project Auburn 2005. **Nesbitt/Snyder/**
Approved by Voice (Absent Holmes)

ADJOURNMENT

Mayor Pro Tem Snyder adjourned the meeting at 7:47 p.m.

Robert Snyder, Mayor Pro Tem

Joseph G. R. Labrie, City Clerk

Minutes transcribed by Deputy City Clerk Anne Cooley